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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 KLAUBER BROTHERS, INC.,  
11 Plaintiff,

12 v.

13 URBAN OUTFITTERS, INC., *et al.*,  
14 Defendant.

Case No. 2:22-cv-08023-JFW-PVCx

STIPULATED PROTECTIVE  
ORDER

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17 1. INTRODUCTION

18 1.1 PURPOSES AND LIMITATIONS

19 Discovery in this action is likely to involve production of confidential,  
20 proprietary, or private information for which special protection from public  
21 disclosure and from use for any purpose other than prosecuting this litigation may  
22 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to  
23 enter the following Stipulated Protective Order. The parties acknowledge that this  
24 Order does not confer blanket protections on all disclosures or responses to  
25 discovery and that the protection it affords from public disclosure and use extends  
26 only to the limited information or items that are entitled to confidential treatment  
27 under the applicable legal principles. The parties further acknowledge, as set forth  
28 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to

1 file confidential information under seal; Civil Local Rule 79-5 sets forth the  
2 procedures that must be followed and the standards that will be applied when a party  
3 seeks permission from the court to file material under seal.

4 1.2 GOOD CAUSE STATEMENT

5 This lawsuit involves, inter alia, a copyright claim wherein Plaintiff Klauber  
6 Brothers, Inc. alleges that the defendants copied a fabric design and sold allegedly  
7 infringing products (the “accused products”) to the public.

8 The parties anticipate that discovery in this matter will seek confidential and  
9 proprietary information, including, but not limited to, information and documents  
10 relative to the production and sale of the accused products as follows:

- 11 • revenues generated from the sale of the accused products;
- 12 • cost of goods associated with the accused products;
- 13 • pricing points for the manufacture and sale of the accused products;
- 14 • transactional documents associated with the import and sale of the accused  
15 products;
- 16 • licensing agreements;
- 17 • gross revenues associated with the sale of the accused products;
- 18 • profits margins associated with the sale of the accused products;
- 19 • general financial information for the parties;
- 20 • expenses for the manufacture, purchase and sale of goods;
- 21 • marketing channels;
- 22 • purchase price for the accused products; and
- 23 • markdown money and other discounting information.

24 The same information and documents may be sought relative to the  
25 production and sale of Plaintiff’s fabric designs.

26 The parties are all involved in the fashion industry. This financial information  
27 is not intended for public disclosure. The parties, in the past, have routinely sought  
28

1 and agreed to prevent sensitive financial information from entering into the public  
2 domain.

3 Further, public disclosure of sensitive financial information will cause harm  
4 to the parties as competitors could use this information to gain an advantage in the  
5 fashion industry. Therefore, this matter is also likely to involve information that the  
6 parties will request be maintained as attorneys' eyes only, namely:

- 7 • Information related to past, current and future market analyses and business  
8 and marketing development, including plans, strategies, forecasts and  
9 competition; and  
10 Trade secrets.

## 11 2. DEFINITIONS

12 2.1 Action: this pending federal lawsuit: *Klauber Brothers, Inc. v. Urban*  
13 *Outfitters, Inc. et al.*, Case No. 2:22-cv-08023-JFW-PVC

14 2.2 Challenging Party: a Party or Non-Party that challenges the  
15 designation of information or items under this Order.

16 2.3 "CONFIDENTIAL" Information or Items: information (regardless of  
17 how it is generated, stored or maintained) or tangible things that qualify for  
18 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
19 the Good Cause Statement.

20 2.4 "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY":  
21 Information or Items: information (regardless of how it is generated, stored or  
22 maintained) or tangible things the disclosure of which might cause competitive harm  
23 to the Designating Party. Information and material that may be subject to this  
24 protection includes, but is not limited to, technical and/or research and development  
25 data, intellectual property, financial, marketing and other sales data, and/or  
26 information having strategic commercial value pertaining to the Designating Party's  
27 trade or business.  
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1           2.5    Counsel: Outside Counsel of Record and House Counsel (as well as  
2 their support staff).

3           2.6    Designating Party: a Party or Non-Party that designates information or  
4 items that it produces in disclosures or in responses to discovery as  
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
6 ONLY.”

7           2.7    Disclosure or Discovery Material: all items or information, regardless  
8 of the medium or manner in which it is generated, stored, or maintained (including,  
9 among other things, testimony, transcripts, and tangible things), that are produced or  
10 generated in disclosures or responses to discovery in this matter.

11          2.8    Expert: a person with specialized knowledge or experience in a matter  
12 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
13 an expert witness or as a consultant in this Action.

14          2.9    House Counsel: attorneys who are employees of a party to this Action.  
15 House Counsel does not include Outside Counsel of Record or any other outside  
16 counsel.

17          2.10   Non-Party: any natural person, partnership, corporation, association, or  
18 other legal entity not named as a Party to this action.

19          2.11   Outside Counsel of Record: attorneys who are not employees of a  
20 party to this Action but are retained to represent or advise a party to this Action and  
21 have appeared in this Action on behalf of that party or are affiliated with a law firm  
22 which has appeared on behalf of that party, and includes support staff.

23          2.12   Party: any party to this Action, including all of its officers, directors,  
24 employees, consultants, retained experts, and Outside Counsel of Record (and their  
25 support staffs).

26          2.13   Producing Party: a Party or Non-Party that produces Disclosure or  
27 Discovery Material in this Action.  
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1           2.14 Professional Vendors: persons or entities that provide litigation  
2 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
3 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
4 and their employees and subcontractors.

5           2.15 Protected Material: any Disclosure or Discovery Material that is  
6 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
7 ATTORNEYS’ EYES ONLY.”

8           2.16 Receiving Party: a Party that receives Disclosure or Discovery  
9 Material from a Producing Party.

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11       3.     SCOPE

12           The protections conferred by this Stipulation and Order cover not only  
13 Protected Material (as defined above), but also (1) any information copied or  
14 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
15 compilations of Protected Material; and (3) any testimony, conversations, or  
16 presentations by Parties or their Counsel that might reveal Protected Material.

17           Any use of Protected Material at trial will be governed by the orders of the  
18 trial judge. This Order does not govern the use of Protected Material at trial.

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21       4.     DURATION

22           Even after final disposition of this litigation, the confidentiality obligations  
23 imposed by this Order will remain in effect until a Designating Party agrees  
24 otherwise in writing or a court order otherwise directs. Final disposition will be  
25 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with  
26 or without prejudice; and (2) final judgment herein after the completion and  
27 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
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1 including the time limits for filing any motions or applications for extension of time  
2 pursuant to applicable law.

3  
4 5. DESIGNATING PROTECTED MATERIAL

5 5.1 Exercise of Restraint and Care in Designating Material for Protection.

6 Each Party or Non-Party that designates information or items for protection under  
7 this Order must take care to limit any such designation to specific material that  
8 qualifies under the appropriate standards. The Designating Party must designate for  
9 protection only those parts of material, documents, items, or oral or written  
10 communications that qualify so that other portions of the material, documents,  
11 items, or communications for which protection is not warranted are not swept  
12 unjustifiably within the ambit of this Order.

13 Mass, indiscriminate, or routinized designations are prohibited. Designations  
14 that are shown to be clearly unjustified or that have been made for an improper  
15 purpose (e.g., to unnecessarily encumber the case development process or to impose  
16 unnecessary expenses and burdens on other parties) may expose the Designating  
17 Party to sanctions.

18 If it comes to a Designating Party's attention that information or items that it  
19 designated for protection do not qualify for protection, that Designating Party must  
20 promptly notify all other Parties that it is withdrawing the inapplicable designation.

21 5.2 Manner and Timing of Designations. Except as otherwise provided in  
22 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
23 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
24 under this Order must be clearly so designated before the material is disclosed or  
25 produced.

26 Designation in conformity with this Order requires:

27 (a) for information in documentary form (e.g., paper or electronic documents,  
28 but excluding transcripts of depositions or other pretrial or trial proceedings), that

1 the Producing Party affix at a minimum, the legend “CONFIDENTIAL” or  
2 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” (hereinafter  
3 “CONFIDENTIALITY legend”), to each page that contains protected material. If  
4 only a portion or portions of the material on a page qualifies for protection, the  
5 Producing Party also must clearly identify the protected portion(s) (e.g., by making  
6 appropriate markings in the margins).

7 A Party or Non-Party that makes original documents available for  
8 inspection need not designate them for protection until after the inspecting Party has  
9 indicated which documents it would like copied and produced. During the  
10 inspection and before the designation, all of the material made available for  
11 inspection will be deemed “CONFIDENTIAL.” After the inspecting Party has  
12 identified the documents it wants copied and produced, the Producing Party must  
13 determine which documents, or portions thereof, qualify for protection under this  
14 Order. Then, before producing the specified documents, the Producing Party must  
15 affix the “CONFIDENTIALITY legend” to each page that contains Protected  
16 Material. If only a portion or portions of the material on a page qualifies for  
17 protection, the Producing Party also must clearly identify the protected portion(s)  
18 (e.g., by making appropriate markings in the margins).

19 (b) for testimony given in depositions that the Designating Party identify the  
20 Disclosure or Discovery Material on the record, before the close of the deposition all  
21 protected testimony.

22 (c) for information produced in some form other than documentary and for  
23 any other tangible items, that the Producing Party affix in a prominent place on the  
24 exterior of the container or containers in which the information is stored the  
25 CONFIDENTIALITY legend. If only a portion or portions of the information  
26 warrants protection, the Producing Party, to the extent practicable, will identify the  
27 protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

## 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer. The Challenging Party will initiate the dispute resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1 et seq.

6.3 The burden of persuasion in any such challenge proceeding will be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties will continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

## 7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a



1 Receiving Party must comply with the provisions of section 13 below (FINAL  
2 DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a  
4 location and in a secure manner that ensures that access is limited to the persons  
5 authorized under this Order.

6 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
7 otherwise ordered by the court or permitted in writing by the Designating Party, a  
8 Receiving Party may disclose any information or item designated  
9 “CONFIDENTIAL” only to:

10 (a) the Receiving Party’s Outside Counsel of Record in this Action, as  
11 well as employees of said Outside Counsel of Record to whom it is reasonably  
12 necessary to disclose the information for this Action;

13 (b) the officers, directors, and employees (including House Counsel) of  
14 the Receiving Party to whom disclosure is reasonably necessary for this Action;

15 (c) Experts (as defined in this Order) of the Receiving Party to whom  
16 disclosure is reasonably necessary for this Action and who have signed the  
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (d) the Court and its personnel;

19 (e) court reporters and their staff;

20 (f) professional jury or trial consultants, mock jurors, and Professional  
21 Vendors to whom disclosure is reasonably necessary for this Action and who have  
22 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

23 (g) the author or recipient of a document containing the information or a  
24 custodian or other person who otherwise possessed or knew the information;

25 (h) during their depositions, witnesses ,and attorneys for witnesses, in the  
26 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
27 requests that the witness sign the form attached as Exhibit A hereto; and (2) they  
28 will not be permitted to keep any confidential information unless they sign the

1 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
2 agreed by the Designating Party or ordered by the court. Pages of transcribed  
3 deposition testimony or exhibits to depositions that reveal Protected Material may  
4 be separately bound by the court reporter and may not be disclosed to anyone except  
5 as permitted under this Stipulated Protective Order; and

6 (i) any mediator or settlement officer, and their supporting personnel,  
7 mutually agreed upon by any of the parties engaged in settlement discussions.

8 7.3. Disclosure of “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES  
9 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in  
10 writing by the Designating Party, a Receiving Party may disclose any information or  
11 item designated “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY” only  
12 to:

13 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well  
14 as employees of said Outside Counsel of Record to whom it is reasonably necessary  
15 to disclose the information for this Action;

16 (b) Experts (as defined in this Order) of the Receiving Party to whom  
17 disclosure is reasonably necessary for this Action and who have signed the  
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

19 (c) the court and its personnel;

20 (d) court reporters and their staff;

21 (e) professional jury or trial consultants, mock jurors, and Professional  
22 Vendors to whom disclosure is reasonably necessary for this Action and who have  
23 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (f) the author or recipient of a document containing the information or a  
25 custodian or other person who otherwise possessed or knew the information;

26 (g) during their depositions, witnesses, and attorneys for witnesses, in  
27 the Action to whom disclosure is reasonably necessary provided: (1) the deposing  
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1 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2)  
 2 they will not be permitted to keep any confidential information unless they sign the  
 3 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
 4 agreed by the Designating Party or ordered by the court. Pages of transcribed  
 5 deposition testimony or exhibits to depositions that reveal Protected Material may  
 6 be separately bound by the court reporter and may not be disclosed to anyone except  
 7 as permitted under this Stipulated Protective Order; and

8 (h) any mediator or settlement officer, and their supporting personnel,  
 9 mutually agreed upon by any of the parties engaged in settlement discussions.

10 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
 11 IN OTHER LITIGATION

12 If a Party is served with a subpoena or a court order issued in other litigation  
 13 that compels disclosure of any information or items designated in this Action as  
 14 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
 15 ONLY,” that Party must:

16 (a) promptly notify in writing the Designating Party. Such notification  
 17 will include a copy of the subpoena or court order;

18 (b) promptly notify in writing the party who caused the subpoena or order  
 19 to issue in the other litigation that some or all of the material covered by the  
 20 subpoena or order is subject to this Protective Order. Such notification will include  
 21 a copy of this Stipulated Protective Order; and

22 (c) cooperate with respect to all reasonable procedures sought to be  
 23 pursued by the Designating Party whose Protected Material may be affected.

24 If the Designating Party timely seeks a protective order, the Party served with  
 25 the subpoena or court order will not produce any information designated in this  
 26 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’  
 27 EYES ONLY” before a determination by the court from which the subpoena or  
 28 order issued, unless the Party has obtained the Designating Party’s permission. The

1 Designating Party will bear the burden and expense of seeking protection in that  
2 court of its confidential material and nothing in these provisions should be construed  
3 as authorizing or encouraging a Receiving Party in this Action to disobey a lawful  
4 directive from another court.

5  
6 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE  
7 PRODUCED IN THIS LITIGATION

8 (a) The terms of this Order are applicable to information produced by a  
9 Non-Party in this Action and designated as "CONFIDENTIAL or "HIGHLY  
10 CONFIDENTIAL – ATTORNEYS' EYES ONLY." Such information produced by  
11 Non-Parties in connection with this litigation is protected by the remedies and relief  
12 provided by this Order. Nothing in these provisions should be construed as  
13 prohibiting a Non-Party from seeking additional protections.

14 (b) In the event that a Party is required, by a valid discovery request, to  
15 produce a Non-Party's confidential information in its possession, and the Party is  
16 subject to an agreement with the Non-Party not to produce the Non-Party's  
17 confidential information, then the Party will:

18 (1) promptly notify in writing the Requesting Party and the Non-Party  
19 that some or all of the information requested is subject to a confidentiality  
20 agreement with a Non-Party;

21 (2) promptly provide the Non-Party with a copy of the Stipulated  
22 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
23 specific description of the information requested; and

24 (3) make the information requested available for inspection by the  
25 Non-Party, if requested.

26 (c) If the Non-Party fails to seek a protective order from this court within  
27 14 days of receiving the notice and accompanying information, the Receiving Party  
28 may produce the Non-Party's confidential information responsive to the discovery

1 request. If the Non-Party timely seeks a protective order, the Receiving Party will  
2 not produce any information in its possession or control that is subject to the  
3 confidentiality agreement with the Non-Party before a determination by the court.  
4 Absent a court order to the contrary, the Non-Party will bear the burden and expense  
5 of seeking protection in this court of its Protected Material.

6  
7 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

8 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
9 Protected Material to any person or in any circumstance not authorized under this  
10 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
11 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts  
12 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or  
13 persons to whom unauthorized disclosures were made of all the terms of this Order,  
14 and (d) request such person or persons to execute the “Acknowledgment and  
15 Agreement to Be Bound” that is attached hereto as Exhibit A.

16  
17 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
18 **PROTECTED MATERIAL**

19 When a Producing Party gives notice to Receiving Parties that certain  
20 inadvertently produced material is subject to a claim of privilege or other protection,  
21 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
22 Procedure 26(b)(5)(B). This provision is not intended to modify whatever  
23 procedure may be established in an e-discovery order that provides for production  
24 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and  
25 (e), insofar as the parties reach an agreement on the effect of disclosure of a  
26 communication or information covered by the attorney-client privilege or work  
27 product protection, the parties may incorporate their agreement in the stipulated  
28 protective order submitted to the court.

1     12.     MISCELLANEOUS

2             12.1    Right to Further Relief. Nothing in this Order abridges the right of any  
3     person to seek its modification by the Court in the future.

4             12.2    Right to Assert Other Objections. By stipulating to the entry of this  
5     Protective Order no Party waives any right it otherwise would have to object to  
6     disclosing or producing any information or item on any ground not addressed in this  
7     Stipulated Protective Order. Similarly, no Party waives any right to object on any  
8     ground to use in evidence of any of the material covered by this Protective Order.

9             12.3    Filing Protected Material. A Party that seeks to file under seal any  
10    Protected Material must comply with Civil Local Rule 79-5. Protected Material may  
11    only be filed under seal pursuant to a court order authorizing the sealing of the  
12    specific Protected Material at issue. If a Party's request to file Protected Material  
13    under seal is denied by the court, then the Receiving Party may file the information  
14    in the public record unless otherwise instructed by the court.

15  
16    13.     FINAL DISPOSITION

17             After the final disposition of this Action, as defined in paragraph 4, within 60  
18    days of a written request by the Designating Party, each Receiving Party must return  
19    all Protected Material to the Producing Party or destroy such material. As used in  
20    this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
21    summaries, and any other format reproducing or capturing any of the Protected  
22    Material. Whether the Protected Material is returned or destroyed, the Receiving  
23    Party must submit a written certification to the Producing Party (and, if not the same  
24    person or entity, to the Designating Party) by the 60 day deadline that (1) identifies  
25    (by category, where appropriate) all the Protected Material that was returned or  
26    destroyed and (2) affirms that the Receiving Party has not retained any copies,  
27    abstracts, compilations, summaries or any other format reproducing or capturing any  
28    of the Protected Material. Notwithstanding this provision, Counsel are entitled to

1 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
2 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
3 reports, attorney work product, and consultant and expert work product, even if such  
4 materials contain Protected Material. Any such archival copies that contain or  
5 constitute Protected Material remain subject to this Protective Order as set forth in  
6 Section 4 (DURATION).

7  
8 14. VIOLATION. Any willful violation of this Order may be punished by civil or  
9 criminal contempt proceedings, financial or evidentiary sanctions, reference to  
10 disciplinary authorities, or other appropriate action at the discretion of the Court.

11 FOR GOOD CAUSE SHOWN BY THE PARTIES' STIPUALTION, IT IS SO  
12 ORDERED.

13  
14 DATED: May 19, 2023



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HON. PEDRO V. CASTILLO  
United States Magistrate Judge



EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [full name], of \_\_\_\_\_ [full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of Klauber Brothers, Inc. v. Urban Outfitters, Inc., *et al.* (2:22-cv-08023-JFW-PVC). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ [full name] of \_\_\_\_\_ [full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_